

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

In re Application of	)	
	)	
<b>ENTERCOM LICENSE, LLC</b>	)	MB Docket No. 16-357
	)	
FM Broadcast Station KDND,	)	File No. BRH-20050728AUU
Sacramento, California	)	File No. BRH-20130730ANM
	)	Facility ID # 65483
	)	
For Renewal of License	)	

TO: Office of the Secretary

ATTN: The Commission

**DEC 20 2016**

Federal Communications Commission  
Office of the Secretary

**REPLY TO  
"OPPOSITION OF ENTERCOM LICENSE, LLC  
TO PETITION FOR RECONSIDERATION"**

Edward R. Stolz II (Stolz), by his attorney, and pursuant to 47 CFR §1.106(f), hereby respectfully submits his Reply to the "Opposition of Entercom License, LLC to Petition for Reconsideration" filed by Entercom License, LLC (Entercom). In so doing whereof, the following is shown:

1. Entercom argues that Stolz is not entitled to intervention in the above-captioned matter because his injury is "speculative" relative to the outcome of the KDND license renewal proceeding. Further, Entercom argues that its character qualifications are not at issue in the hearing to be held in Docket 16-357.

3. Entercom argues that Stolz engages in a "twisted chain of logic" (Opposition at 4). This is comically ironic, since Entercom is the twisted party here, its conduct of an on air contest having resulted in the death of a listener/contestant.

4. Stolz has a financial interest in the outcome of the KDND proceeding, as the parties responsible for the tragic conduct which underlies Docket 16-357 are also the ownership and management of KUDL/KWOD, the ownership of which is disputed by Stolz. If Entercom is disqualified from being a Commission licensee of KDND, why would they not also be disqualified from being a Commission licensee of KUDL/KWOD pursuant to the Commission's 1986 Policy Statement on Character Qualifications in Broadcast Licensing? This is because if Entercom were to be disqualified as a Commission licensee in Sacramento, File No. BALH-20021120ACE would have to be vacated or dismissed, and KUDL/KWOD would have to be returned to Stolz. There is nothing twisted about this. Stolz has asserted a straightforward rationale why his claim of standing as an intervenor must be sustained.

5. Entercom claims that its character qualifications are not at issue here. That seems stunning to us. Character qualifications, pursuant to 47 U.S.C. §308(b), are not limited to misrepresentations or "lack of candor" in applications. We've seen cases at the FCC relative to

trafficking in broadcast licenses<sup>1</sup>, sexual assaults of minor children<sup>2</sup>, felony drug trafficking<sup>3</sup>, and fraud<sup>4</sup>. One of the most famous cases in the history of the FCC, **Melody Music, Inc. v. FCC**, 345 F.2d 730 (D. C. Cir. 1965), involved the aftermath of a rigged television game show, where producers Jack Berry and Daniel Enright were found to lack the basic character qualifications to be FCC licensees of an AM Broadcast Station in Hollywood, Florida<sup>5</sup>.

6. Perhaps we should have used the term "basic qualifications"; character qualifications are part and parcel of "basic qualifications". It seems to us that based on the scope of the inquiries under issues "a" through "g" of the Hearing Designation Order in the above-entitled proceeding, Entercom's basic qualifications, including its character qualifications, are squarely at issue.

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<sup>1</sup>**Folkways Broadcasting Co. v. FCC**, 375 F.2d 299 (D. C. Cir. 1967).

<sup>2</sup>**Contemporary Media, Inc. v. FCC**, 214 F.3d 187 (D. C. Cir. 2000).

<sup>3</sup>**Commission Clarifies Policies Regarding Licensee Participation in Drug Trafficking**, 4 FCC Rcd 7533 (1989).

<sup>4</sup>**McClatchy Broadcasting Co. v. FCC**, 239 F.2d 19 (D. C. Cir. 1956)

<sup>5</sup>See discussion in **Melody Music, Inc. (WGMA)**, 1 FCC 2d 878 (1965).

7. As we observed in our Petition for Reconsideration, since Stolz has an economic interest in the outcome of the KDND proceeding, the Commission lacks the discretion to deny Stolz status as a party in interest in the above-captioned docket. **Elm City Broadcasting Corporation v. FCC**, 235 F.2d 811, 819 (D. C. Cir. 1956).

8. In **Interstate Broadcasting Company v. FCC**, 286 F.2d 539, 542 (D. C. Cir. 1960), Judge Bazelon, writing for the appellate court, stated:

The Commission mistakes the function of intervention under § 309(b). The Supreme Court's decisions in *Federal Communications Comm. v. Sanders Bros. Radio Station*, 1940, 309 U.S. 470, 642, 60 S.Ct. 693, 84 L.Ed. 869; and *Federal Communications Comm. v. National Broadcasting Co. (KOA)*, 1943, 319 U.S. 239, 63 S.Ct. 1035, 87 L.Ed. 1374, indicate that, although it is private interest which confers standing to appeal or the right to intervene, the function of the intervenor is to urge the public interest. In view of this rationale, and the standard of 'public interest, convenience and necessity' upon which the Commission is to determine whether an applicant is entitled to the grant, we think it incongruous to foreclose present review of the denial of intervention merely because the would-be intervenor ultimately might not suffer private injury as a result of the Commission's action. [footnotes omitted].

9. Stolz's participation in the KDND hearing would advocate the public interest, as he has come forward to assist the government in an administrative prosecution of issues directly relating to whether Entercom should remain a Commission licensee. As is noted in **Interstate**, the standard for intervention is less in an administrative proceeding than


it is in an Article III court. Stolz presently has a financial interest in the outcome of the above-captioned KDND license renewal proceeding, and therefore he is clearly entitled to intervenor status in said hearing.

10. Therefore, the arguments of Entercom notwithstanding, the FCC must grant reconsideration of its HDO and grant Stolz status as a party and interest and accord him intervenor status in MB Docket No. 16-357.

WHEREFORE, Edward R. Stolz II urges that this Petition for Reconsideration BE GRANTED, and that he **BE GRANTED STATUS AS AN INTERVENOR** in MB Docket No. 16-153.

Respectfully submitted,

**EDWARD R. STOLZ II**

By   
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DATED: December 20, 2016

## **CERTIFICATE OF SERVICE**

It is hereby certified that true copies of the foregoing "Reply, etc." were served by first-class mail, postage prepaid, or by e-mail to FCC personnel as indicated below, on this 20<sup>th</sup> day of December, 2016 upon the following:

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